

Minutes of the Planning Commission meeting held on Thursday, November 18, 2010, at 6:30 p.m. in the Murray City Municipal Council Chambers, 5025 South State Street, Murray, Utah.

Present: Jim Harland, Chair
Sheri Van Bibber, Vice-Chair
Ray Black
Tim Taylor
Karen Daniels
Kurtis Aoki
Jeff Evans
Tim Tingey, Community & Economic Development Director
Chad Wilkinson, Community Development Planner
Citizens

The Staff Review meeting was held from 6:00 to 6:30 p.m. The Planning Commission members briefly reviewed the applications on the agenda. An audio recording of this is available at the Murray City Community and Economic Development Department.

Mr. Harland opened the meeting and welcomed those present.

APPROVAL OF MINUTES

There were no minutes for approval.

CONFLICT OF INTEREST

There were no conflicts of interest for this agenda.

APPROVAL OF FINDINGS OF FACT

Tim Taylor made a motion to approve the Findings of Fact for Conditional Use Permits for: Murdock Hyundai, Hills Construction, A-Core, Contract Appliance Sales, and Sego Lily School from the November 4, 2010 meeting. Seconded by Karen Daniels

A voice vote was made. The motion passed, 7-0.

ALTA SHUTTLE – 155 East Court Avenue – Project #10-227

Thomas Schneider was the applicant present to represent this request. Tim Tingey reviewed the location and request for Conditional Use Permit approval for an airport taxi transportation service and garage in the former Murray newspaper printing building. Municipal Code Ordinance 17.160.030 allows motor vehicle transportation and garage within the C-D-C zoning district subject to Conditional Use Permit approval. This property is also located within the Downtown Historic Overlay District (DHOD). The 4,000 sq. ft. garage will be used to park vehicles, when not in use, to shuttle passengers from the airport to the ski resorts or other areas. Murray City has a public right-of-way to the west side of the building called Division Street. The applicant indicated Alta Shuttle will be occupying the northern part of the building. Plans for the future include to remodel and rent out the 2,500 sq. ft. office portion of the building which will require meeting Murray City requirements and business

licensing. The applicant indicated vehicle maintenance repairs will not be performed at this location. There is minimal parking on this property. The applicant noted there will be two employees working on site. The building is located in the Downtown Historic Overlay District which does not require additional parking spaces provided that the owner can accommodate the parking needs of patrons and employees. There is a small paved parking lot at the south east side of the building which will need to be striped including a disabled stall to meet zoning regulations. Murray City has a narrow parcel of property located to the west of the building which is currently used by adjoining businesses as an open city owned parking area. The building is legal nonconforming regarding meeting the required setbacks for the C-D-C zone. The site is legal nonconforming regarding landscaping on the site. Future development or change of use may require future landscaping on the site. Based on the information presented, application materials, and site review, staff recommends approval subject to conditions.

Thomas Schneider, 2205 East 9800 South, Sandy, stated he is the president of Alta Shuttle which is a transportation shuttle primarily from the airport to Alta Ski Resort. He stated that this building has been vacant for a year and this business will benefit other businesses in the city such as Jiffy Lube, car washes, tire and maintenance businesses. He stated that the winter ski tourism business does cater to many people coming from out of state. He stated that they will only have two staff members at this location and there will be on average one shuttle vehicle at this location per hour. He stated this location is primarily the dispatching location. Mr. Schneider stated he has reviewed the staff recommendations and will comply with the conditions of approval.

Ray Black asked how many shuttle vans will the business have over night. Mr. Schneider responded that their shuttle vans will be kept inside the building for over night. He stated that they have two desks at the airport location and two employees will be at this location and the remainder of their employees are the shuttle drivers.

No comments were made by the public.

Ray Black made a motion to grant Conditional Use Permit approval for an airport shuttle service and garage for Alta Shuttle at 155 East Court Avenue subject to the following conditions:

1. The project shall meet all applicable building code standards, provide a wheelchair accessible access and a disabled parking stall with sign posted.
2. The project shall meet all current fire codes.
3. The parking stalls shall be striped, including a disabled stall, to meet zoning and ADA regulations.
4. Meet all Water and Sewer Department requirements. No auto repairs, washing and detailing is permitted on site.
5. Use of a trash container shall be screened as required by Section 17.76.170.

Seconded by Karen Daniels.

Call vote recorded by Chad Wilkinson.

A _____ Mr. Black
A _____ Ms. Van Bibber
A _____ Ms. Daniels
A _____ Mr. Evans
A _____ Mr. Taylor
A _____ Mr. Harland
A _____ Mr. Aoki

Motion passed, 7-0.

METRO SELF STORAGE – 6380/6384 S Cottonwood Street – Project #10-228

Jared Conley was the applicant present to represent this request. Chad Wilkinson reviewed the location and request for an extension of the Temporary Conditional Use Permit (CUP) issued on September 18, 2008, to allow a temporary office for Metro Self Storage located at 6380 & 6384 S. Cottonwood Street. The original temporary CUP was for 6 months. The Zoning ordinance allows for staff to extend the temporary CUP for up to 18 additional months provided a permanent structure has received approval. A site plan approval was issued for a permanent office on June 29, 2009. A building permit for the permanent structure was approved but never picked up by the applicant and has subsequently been cancelled. The zoning ordinance allows for an additional extension by the Planning Commission of up to one year provided unusual circumstances exist. The construction on the Cottonwood Street realignment has delayed the construction of the permanent office on the site and constitutes an unusual circumstance that justifies an additional extension of the Conditional Use Permit for the temporary trailer. Based on the unusual circumstances related to the extension of Cottonwood Street, Staff recommends the extension of the temporary conditional use permit for one additional year. The extension will expire on September 18, 2011. Because no further extensions are available, the applicant will need obtain all necessary building permit approvals and establish a permanent office on the site by this date.

Tim Taylor asked if the permanent use will be established prior to the expiration of the temporary conditional use permit approval.

Jared Conley, 2795 East Cottonwood Parkway, Suite 400, Salt Lake City, stated he is representing Extra Space Storage for this proposal. He stated he is currently under contract with the seller to purchase the property. He stated that building permit that was previously taken out for this property has expired and was canceled and they will need to reapply for a building permit. This extension of the CUP is a condition for purchase of the property.

No comments were made by the public.

Jeff Evans made a motion to grant a one year extension of the Temporary Conditional Use Permit for Metro Self Storage at 6380/6384 South Cottonwood Street until September 18, 2011. Seconded by Sheri Van Bibber.

Call vote recorded by Chad Wilkinson.

A _____ Mr. Black
A _____ Ms. Van Bibber
A _____ Ms. Daniels
A _____ Mr. Evans
A _____ Mr. Taylor
A _____ Mr. Harland
A _____ Mr. Aoki

Motion passed, 7-0.

ROLL RIGHT AUTO, LLC – 4195 South 500 West #86 – Project #10-229

Michael McNalley was the applicant present to represent this request. Tim Tingey reviewed the location and request for a Conditional Use Permit approval for an auto sales business. The applicants plan to park 3 cars for sale inside the building. The site plan shows 3 stalls for customer and employee parking at the exterior of the building. The parking stalls at this property shall be striped to meet parking regulations including 1 disabled stall to meet ADA regulations. Parking in front of overhead doors is not permitted. The existing office warehouse building contains about 450 total sq. ft. with about 100 sq. ft. office and 350 sq. ft. warehouse which will require 2 parking stalls. The applicant indicated he will be parking 3 cars for sale inside the existing warehouse area. The building meets the required setbacks for the M-G-C (manufacturing zone). The property has existing landscaping to meet the zoning regulations. Based on the application materials submitted and the site review, staff recommends approval subject to conditions.

Karen Daniels asked for clarification about the parking stalls being in compliance with the entire project and not just the tenant. Mr. Tingey responded that the parking is for this site only and any other noncompliance issues on the site will be addressed through code enforcement.

Michael McNalley, 1168 South Foothills Drive, Salt Lake City, stated he has reviewed the staff recommendations and will comply. He stated that most of their sales will be through the internet.

Ray Black asked if the tenant is responsible for ensuring the trash containers are brought up to code and will need to work with the property owner. Mr. McNalley stated he will discuss this with the property owner.

No comments were made by the public.

Ray Black made a motion to grant Conditional Use Permit approval for Roll Right Auto at 4195 South 500 West #86 subject to the following conditions:

1. The project shall meet all applicable building code standards.
2. The project shall meet all current fire codes.
3. All trash containers shall be screened as required by Section 17.76.170 **prior to issuance of a business license.**
4. All of the parking stalls, including a disabled stall with sign posted, shall be paved and striped to meet zoning and ADA regulations **prior to issuance of a business license.**
5. Parking cars for sale in parking stalls at the exterior of the building is not permitted.

Seconded by Tim Taylor.

Call vote recorded by Chad Wilkinson.

A _____ Mr. Black
A _____ Ms. Van Bibber
A _____ Ms. Daniels
A _____ Mr. Evans
A _____ Mr. Taylor
A _____ Mr. Harland
A _____ Mr. Aoki

Motion passed, 7-0.

HOFFMAN BUILDING – 4830 & 4832 South State Street – Project #10-226

Chad Wilkinson was the city staff representative for this application. The request is for a Certificate of Appropriateness for a partial demolition of a significant building located within the Downtown Historic Overlay District. The property is addressed 4828, 4830 & 4832 South State Street. Municipal Code Section 17.164.080 outlines the process for review of applications located within the Downtown Historic Overlay District (DHOD). New construction within the DHOD requires the issuance of a Certificate of Appropriateness by the Planning Commission after the project receives review and recommendation from the Design Review Committee. A public hearing is required prior to issuance or denial of the Certificate of Appropriateness. Municipal Code Section 17.164.070 F. 1.c. allows for issuance of a certificate of appropriateness for demolition of significant structures when the city building official has verified in writing that the building is an imminent hazard to public safety or health and repairs are impractical. The Hoffman building caught fire on the morning of October 22, 2010. After the fire, the building was partially boarded up and fencing was placed around the site for safety purposes. On the day of the fire, the City hired Calder Richards Consulting Engineers to evaluate the damage to the building and to determine if the structure was an imminent threat or hazard. The report from the engineer indicates that a fourteen foot area of the northwest portion of the building must be removed, but the remainder of the building is structurally sound. The City's Chief Building Official has also evaluated the building. He recommended conducting further evaluation of the structure due to weather and time issues that may further

compromise the structural integrity of the building. Additional review of the condition of the building is ongoing and the Commission will be involved in any decision related to the final disposition of the building. The Design Review Committee reviewed the project on October 28, 2010. The committee recommended approval of the proposed certificate of appropriateness for a partial demolition of the structure in accordance with the recommendation of the structural engineer. However, there is a possibility for a subsequent request for full demolition of the building due to the fire damage. Based on the information presented in this report, staff recommends approval of the Certificate of Appropriateness for a partial demolition of the building known as the Hoffman Building, in accordance with the recommendation of the Structural Engineer.

Jim Harland indicated that this agenda item is a public hearing. He opened up the meeting for comments. No comments were made by the public.

Jeff Evans made a motion to grant a Certificate of Appropriateness for a partial demolition of the Hoffman Building located at 4830 & 4830 South State Street for the north-west corner of the building as requested due to structural nature of the building. Seconded by Sheri Van Bibber.

Call vote recorded by Chad Wilkinson.

A _____ Mr. Black
A _____ Ms. Van Bibber
A _____ Ms. Daniels
A _____ Mr. Evans
A _____ Mr. Taylor
A _____ Mr. Harland
A _____ Mr. Aoki

Motion passed, 7-0.

LAND USE ORDINANCE TEXT AMENDMENTS – Reiki Business Use – Project #10-230

Chad Wilkinson was the city staff representative for this proposal. Mr. Wilkinson explained that Murray City is requesting a text amendment to include “Reiki” as a land use in the standard land use code and to allow the use as a conditional use in the C-D and M-G zones. Several requests for business licenses for Reiki establishments have been filed over the past months prompting a need for the City to clarify the use and the locations where this use is appropriate. Reiki is defined by the State of Utah as a “spiritual healing art” that is performed on an individual by a Reiki Practitioner by “transmitting healing life force energy” through the hands.” Some business licenses have been previously issued for Reiki use in areas where massage therapy is allowed including G-O and some legal nonconforming R-M-10 office developments based on an understanding by City staff that the use is somewhat similar to massage therapy, which is classified under Personal Services Use number 6296 in the Standard Land Use Code. Massage Therapy requires minimum certification and a State license. Upon further research, staff has determined that the use is not massage therapy and that the State of Utah Department of Commerce has determined that Reiki is not a modality of Massage Therapy. In the past, the city has been using the Land Use

category #6296, personal services and includes massage therapy. Based on the State of Utah determination that the use is not a form of massage therapy, staff has concluded it would be beneficial to create a separate land use category for Reiki for the purpose of clarity.

There have also been some concerns from neighboring businesses related to at least one existing Reiki use in Murray. Some of the complaints have been related to the attire of individuals working at one of the establishments. It should be noted that if a business meets any of the definitions of a sexually oriented business, approval will require compliance with the location and operational requirements for sexually oriented businesses contained in the zoning ordinance.

In light of these factors staff is concerned that Reiki is not appropriate in all zoning districts. To address these concerns, staff recommends adoption of a new land use category in the Standard Land Use Code. The new category would be 6297 Reiki Business. This new category would be listed as a conditional use in the M-G-C and C-D-C zoning district. Requiring a Conditional Use Permit will allow for additional discretion to address concerns related to the function and nature of the use. The conditional use permit process will also allow for conditions to be applied in order to ensure that the use must comply with dress codes and other requirements for individual employees.

Tim Taylor asked if this use is relatively new and if it will be around for a long time. Mr. Wilkinson responded that this is a relatively new use and currently there isn't a land use category that fits this particular use and it is not considered a modality a massage therapy.

Karen Daniels asked if the existing businesses would need to conform to the new definition and allowed zoning districts or would they be nonconforming. Mr. Wilkinson responded any existing "Reiki" businesses would be considered legal nonconforming uses.

Bobbi Henry, 5000 South Glen Street, stated she is licensed as a therapeutic touch therapist. She stated that Reiki doesn't fall under the massage category. She stated that in the past it was a question as to whether to certify Reiki under a State point of view or a religious point of view. She stated that Reiki is a limiting name and falls under an "energy healing arts" or "holistic energy" or "wellness" names and there are different versions of Reiki such as the Japanese version or the Thai version. She stated these are all very different from massage and does not require touching clients. She suggested having the Land Use be a more broad category such as some type of "holistic or energy healing" and not massage. She stated that often times these types of businesses operate out of a home as a home occupation and not just in zoning districts such as the M-G-C or the C-D-C districts.

Tim Tingey explained that the C-D-C (commercial) and M-G-C (manufacturing) zoning districts are the two primary commercial districts in Murray that provide a variety of uses within the districts. He stated the Reiki type business is currently allowed outright in a C-D-C and M-G-C zoning district. He stated that the city has relied on the State's definition of Reiki businesses which is a spiritual healing art, or

transmitting healing, light force energy, and that these types of definitions will help staff to evaluate proposals in the future that may not have a name of "Reiki" but are defined under these types of classifications. He stated that the staff feels this use is appropriate for these two zoning districts but that there should be some scrutiny related to the Conditional Use Permit process. He stated that this use may be allowed as a home occupation and as long as the business owner meets the standards of the Home Occupation permit.

Kurtis Aoki asked if the different definitions such as holistic healing, transmitting healing, etc. would be added to the definitions in the land use. Mr. Tingey responded that a Reiki establishment would include the various definitions similar to the State code. He stated that the code could be changed in a fashion that states something like "Reiki or similar establishment". He stated that there have been approximately 40 business license applications and all of those have indicated "Reiki" on their applications.

Chad Wilkinson stated that if the code is too broad, it may include many other types of uses as well that may be associated with holistic or healing, touch type therapies, etc. He suggested that the definition ought to be something like "Reiki or similar business/establishment".

Tim Taylor made a motion to forward a positive recommendation to the city council to amend the zoning ordinance to create a new Land Use category #6397, which is Reiki businesses and that this new land use category be a Conditional Use Permit in the M-G-C and C-D-C zoning districts. Seconded by Karen Daniels.

Call vote recorded by Chad Wilkinson.

A _____ Mr. Black
A _____ Ms. Van Bibber
A _____ Ms. Daniels
A _____ Mr. Evans
A _____ Mr. Taylor
A _____ Mr. Harland
A _____ Mr. Aoki

Motion passed, 7-0.

LAND USE TEXT ORDINANCE AMENDMENT - Family Definition Modification –
Project #10-232

Tim Tingey reviewed the proposal for a text amendment to Murray Municipal Code Section 17.08.020 as it relates to the regulations and definition for a family. The definition for family in the current Murray City Land Use regulations defines "Family" as: "An individual, or two (2) or more persons, related by blood, marriage, or adoption, and/or not more than three (3) persons (excluding servants) who are not related, living in a dwelling unit as a single housekeeping unit and using common cooking facilities."

The Utah State Legislature has amended the Utah Code Title 10-9a-505.5 regarding

“single-family limit” which means the number of unrelated individuals allowed to occupy a unit in a zone permitting occupancy by a single family. Changes to the code stipulate that a municipality may not adopt a single-family limit that is less than four (4) unrelated individuals for a municipality that does not have a state university or private university with a student population of at least 20,000.

The purpose of the Land Use Ordinance text amendment for Murray Municipal Code Section 17.08.020 is to comply with the Utah State Legislature change to the state code that allows less than four (4) unrelated individuals in a single-family dwelling unit and a draft ordinance has been prepared reflecting such changes. Staff recommends that the Planning Commission forward a recommendation of approval to the City Council for the proposed amendment.

No comments were made by the public.

Tim Taylor made a motion to send a positive recommendation to the City Council for a ordinance text amendment to Municipal Code Section 17.08.020 be changed from allowing three (3) unrelated individuals to “not more than four (4) unrelated individuals” in the definition of “Family” as proposed. Seconded by Sheri Van Bibber.

Call vote recorded by Chad Wilkinson.

A _____ Mr. Black
A _____ Ms. Van Bibber
A _____ Ms. Daniels
A _____ Mr. Evans
A _____ Mr. Taylor
A _____ Mr. Harland
A _____ Mr. Aoki

Motion passed, 7-0.

Meeting adjourned.

Tim Tingey, Director
Community and Economic Development